IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 21654 of 2004

Between:

T.Padma, W/o T.Lingam,
R/o H.No.4-8-17/6, Kummarivadi, Mahaboobnagar District

..... PETITIONER

AND

1 The Collector & District Magistrate, Mahaboobnagar
2 The Govt.of Andhra Pradesh, represented by its Chief

Secretary, Secretariat, Hyderabad
3 The Superintendent, Central Prison, Cherlapally,
Ranga Reddy District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Habeas Corpus under Article 226 of the Constitution of India directing the respondents to produce the detenu Sri T.Lingam, S/o Mallappa now detained in Central Prison, Cherlapally, before this Honourable Court and he may be ordered to be released forthwith after declaring his detention as illegal and void.

Counsel for the Petitioner:MR.K.SRINIVASA REDDY

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following :

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

This writ petition has been filed challenging the order of detention of Tankara Lingam, S/o Mallappa, who has been detained under Section 3 (2) of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986.

Counter has been filed. Record has been produced. We have heard learned counsel for the parties. Various grounds have been taken challenging the order of detention. One of the grounds taken is that the detenu was not informed that he has a right to make a representation against the order of detention to the detaining authority. This is not disputed in the counter-affidavit. It is not disclosed either in the order of detention or in the grounds of detention that the detenu was informed that he has a right to make a representation against the order of detention to the detaining authority. This question of law has already been decided by this Court in W.P.Nos.20629 of 2004, 20160 of 2004, 20559 of 2004 and 21086 of 2004, dated 09-12-2004.

Following the same judgment, we are of the view that the precious right of the detenu under Article 22(5) of the Constitution of India has been denied to him and therefore, the order of detention cannot be upheld.

The writ petition is allowed. The order of detention is quashed. The respondents are directed to release the detenu from custody forthwith, if not required in any other case. No order as to costs.

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(BILAL NAZKI, J)

13th December, 2004.

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(Dr. G.YETHIRAJULU,J)

vrn

To

1 The Collector & District Magistrate, Mahaboobnagar
2 The Govt.of Andhra Pradesh, represented by its Chief

Secretary, Secretariat, Hyderabad
3 The Superintendent, Central Prison, Cherlapally,
Ranga Reddy District

4 Two C.Cs to the Advocate-General, High Court of A.P.,

Hyderabad (OUT)

5 Two C.D copies.